

United States District Court  
Southern District of Texas  
FILED

NOV 20 2013

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

CASE NO.: H-13-1633

Byron Harper,  
Plaintiff,  
-Vs.-

Charlotte Koehler,  
Suzanne Hollifield,  
Peace Officer for HOUSTON  
POLICE DEPARTMENT

Belinda Smith,  
Assistant District Attorney of  
HARRIS COUNTY, TEXAS

Amy Demmler,  
Intern for HARRIS COUNTY,  
TEXAS, DISTRICT ATTORNEY'S  
OFFICE ANIMAL CRUELTY  
SECTION,

Judge Larry Standley,  
Judge for HARRIS COUNTY,  
TEXAS, CRIMINAL COURT NO.6

Eugene Hong,  
Assistant District Attorney of  
HARRIS COUNTY, TEXAS.  
Defendants,

All defendants are sued in their corporate,  
legal, fiduciary, official, and personal capacities.

AMENDED COMPLAINT  
CONSTITUTIONAL VIOLATIONS  
TITLE 42 1983, 1985, & 1986  
TITLE 42 14141  
DENIAL OF DUE PROCESS  
INTENTIONAL INFILCTION OF  
EMOTIONAL DISTRESS  
CONSPIRACY

TRIAL BY JURY OF MY OWN PEERS  
WAS, AND IS, DEMANDED

**PLAINTIFF'S FIRST AMENDED COMPLAINT**

TO THE HONORABLE JUDGE KEITH P. ELLISON:

COMES NOW, Plaintiff, Byron Harper, In Propria Persona, Sui Juris a natural person (not to be confused with nor substituted with Pro Se by unauthorized hand of another) and not a Statutory Person. Sues above named Defendants, (hereinafter "Defendants") in the above-numbered and entitled case, and for causes of action would respectfully show unto the court and jury my constitutional rights, privileges, and immunities have been violated. Defendants have

acted without Jurisdiction, Delegation of Authority, and used an Unconstitutional code / statute to bring illegal, unlawful, unconstitutional charges by filing a fraudulent affidavit. In addition, Extortion, Excessive Bail, and Retaliation, will be shown to the court.

**Official Notice is hereby served on THE STATE OF TEXAS and HARRIS COUNTY CRIMINAL COURT NUMBER 6; all Judicial Sub-Divisions; Officials; Agents; and above named Defendants-all cases and Jurisdiction / Venue moved to United States District Court Southern District of Texas pursuant to 28 U. S. C. 1441 thru 1446. All Matters, Complaints, Criminal Cases, Bonds / Suits, Citations / Bills of Exchange (misrepresented as lawful warrants, etc.), must be filed with Federal Court, pursuant to Jurisdiction named hereinafter.**

**JURISDICTION AND VENUE**

1. Jurisdiction / Venue are hereby placed in Federal District Court. The Plaintiff claims federal jurisdiction pursuant to Article III, § 2, of the United States Constitution, for the United States Republic, and the several states, under the Constitution; Article VI; and reaffirmed by obligatory Official Oaths which extends federal jurisdiction to cases arising under the United States Constitution. These violations were committed by the Defendants under color of authority / law. Their acts as delineated in this Complaint, are inequitable, illegal, unlawful, and unconstitutional.
2. Jurisdiction of this court arises under 28 U.S.C. §§ 1331, 1337, 1343(a) (civil rights and elective franchise), and 1367(a) (supplemental jurisdiction); 42 U.S.C. §§ 1983 (civil action for deprivation of rights), 1985(3) (conspiracy to interfere civil rights), 1986, and (proceedings in vindication of civil rights); and 18 U.S.C. §§ 1341, 1511; 1961 (and statutes cited therein) through 1967.
3. Jurisdiction of this court for the pendent claims is authorized by F.R.Civ.P. 1 and arises under the doctrine of pendent jurisdiction as set forth in **United Mine Workers v Gibbs, 383 U.S. 715 (1966)**.
4. Venue is appropriate in this judicial district under 28 U.S.C. § 1391 (b), because Defendants reside here, and the events giving rise to the Complaint occurred here.

5. Petitioner is addressing grievances according to the 1st Amendment of the United States Constitution. "As the U.S. Supreme Court has held, the right to petition for redress of grievances is 'among the most precious of the liberties safeguarded in the bill of rights'. (Cites) Inseparable from the guaranteed rights entrenched in the First Amendment, the right to petition for redress of grievances occupies a 'preferred place' in our system of representative government and enjoys a 'sanctity and a sanction not permitting dubious intrusions.' **Thomas v Collins, 323 US 516; 65 S.Ct 315, 322.**

### **CAUSE OF ACTION**

The cause of action was caused by a fraudulent affidavit filed on May 25, 2012. This documentation was signed by Amy Demmler an intern in the Harris County District Attorney's Animal Cruelty Section. Which states affiant reviewed a report prepared by Suzanne Hollifield a peace officer reputably employed by the Houston Police Department. This documentation states that affiant believes that on April 9, 2012, Byron Harper committed the offense of Animal cruelty. This is all made by contact of reportee Charlotte Koehler a non witness with no facts providing this incident ever occurred. On April 24, 2012 Officer Suzanne Hollifield did a follow-up investigation regarding the welfare of the dog. Which is fifteen (15) days later after the so called event occurred. Yet, at no time has Affiant provided any evidence of the facts of the matter. *See Exhibit A* That which has taken place, not what might or might not have taken place. **Churchhill v Meade, 92 Or. 626, 182, P. 368, 371.** "Facts" to which Supreme Court is limited to quash Court of appeals; decision for conflict comprise record before Court of Appeals evidence, documentary and oral, and instructions and pleadings. **State ex rel. Horspool v Hald, 28 Mo. 327, 40 S.W. 2d 611, 613** Which is an actual happening in time or space or an event or circumstance; an actual occurrence. An actual happening in time or space or an event mental or physical. **Fowler Curtis Co. v Dean, 203 App.Div. 317, 196 N.Y.S. 750, 754.**

Charlotte Koehler was the catalyst who made several calls and sent several emails to law

enforcement. Making false claims a dog was being abused. She provided no proof or evidence. Her story has been inconsistent and changing. she's made statements and given accounts to law enforcement and investigators that are not factual. Her false claims have caused me injury and are a violation of my rights.

Officer Suzanne Hollifield followed-up with non-thorough police investigative work. She rushed to judgment. She did not ask enough questions, and really assess if what Ms. Koehler and the dog owner said was true and accurate or if any details or pertinent information was being conveniently left out. She took everything they said at face value. A little thoroughness can go a very long way. This is especially true in police investigative work. In addition, she signed off on fraudulent charges using an Unconstitutional code / statute and failed to get a sworn affidavit under penalty of perjury from an injured party. There is no real complainant and she had no proof a crime happened. This is where the denial of due process began.

Amy Demmler created and signed a fraudulent affidavit based on her belief that what Officer Hollifield told her about what Ms. Koehler said was true. Well, beliefs do not count, law, facts, evidence, and truth do. Her fake affidavit has no law, facts, evidence, or truth to support it.

Belinda Smith signed-off on a fraudulent affidavit by (fake) affiant Amy Demmler. She has no proof a crime occurred and no signed affidavit by an injured party. In addition, she is using an Unconstitutional code / statute to bring charges. She had no jurisdiction to move forward with charges. Additionally, Ms. Smith is in violation **18 U.S.C.1346** because she is paid by the county who is representing the state. This is considered a bribe and a violation of her fiduciary responsibility. She has an undisclosed financial interest in every case she prosecutes. The prosecution has also, failed to provide necessary bonding information when requested *See Exhibit B*. This is also another attempt to hide the prosecutions fiduciary

obligation. No case should move forward with out the prosecution having proper bonding in place. This is not honest service and therefore violates **18 U.S.C.1346**. “Fraud in its elementary common law sense of deceit. Includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public and if he deliberately conceals material information from them he is guilty of fraud”. **McNally v U.S.**  
**483 U.S. 350, 371-372, Quoting U.S. v Holzer, 816 F.2d. 304, 307.**

Judge Standley affixed his signature to the fraudulent affidavit as well. As a 20 year plus veteran judge he should know the difference between a real affidavit and a fake. He is continuing to violate my rights in light of the fact. He's failed to provide proof of jurisdiction, acquiesced to not having jurisdiction, and he and the court have no authority over Byron Harper. In addition, he's attempting to enforce an Unconstitutional code / statute. With all of this in mind the Judge has engaged in Excessive Bail Amounts, Extortion, and Retaliation.

Eugene Hong got involved with this case that was initiated with a fraudulent affidavit to prosecute the case in open court. He has conspired with the others to bring fraudulent charges against me by using an Unconstitutional code / statute. Proof is the document(s) he has filed into the court record ***See Exhibit C***. He is also in violation of **18 U.S.C.1346**. He has an undisclosed financial interest in every case he prosecutes. Additionally, he failed to provide proof as requested that the case has been properly bonded before it could move forward. As such he has concealed his fiduciary obligation. His actions are not in line with honest service.

#### **COUNTS AND CHARGES**

- (1) Violation of 42 U.S.C. §1983,
- (2) Violation of 42 U.S.C. §1983 and 1985(3): Conspiracy,
- (3) Violation of 42 U.S.C. §1983: Refusing or neglecting to prevent
- (4) Violation of 42 U.S.C. 14141
- (5) Malicious abuse of process,
- (6) Title 18 U.S.C. Section 241 and 242 Conspiracy,

- (7) Intentional infliction of emotional distress,
- (8) Mail Fraud
- (9) Violation of 18 U.S.C. 872 Extortion
- (10) Violation of Eighth Amendment of U.S. Constitution (Excessive Bail)
- (11) Violation of 18 U.S.C. 1513 Retaliation

**COUNT 1: VIOLATION OF 42 U.S.C. § 1983**

1. At all times relevant herein, the conduct of all Defendants are subject to 42 U.S.C. §§1983, 1985, 1986, and 1988.
2. Acting under the color of law, Defendants conspired to deny Byron Harper rights, privileges, and immunities secured by the United States Constitution of by Federal Law.
3. Defendants conspired for the purpose of impeding and hindering the due course of justice, with the intent to deny Byron Harper equal protection of laws. **Johnson v Zerbst, 304 U.S. 458, 58 S Ct. 1019.**

WHEREFORE, Byron Harper demands judgment for violation of 42 U.S.C. 1983 against Defendants in his/her Official capacity, for actual damages in the amount of \$100,000.00 and further demands judgment against each said Defendant jointly and severally, punitive damages in the amount of \$10,000, plus the costs of this action, and such other relief deemed to be just and equitable. Punitive damages are recoverable in §1983 suit where defendant's conduct is motivated by an evil motive or intent, or where it involves reck-less or callous indifference to plaintiff's federally protected rights. **Smith v Wade, 461 U.S. 30, 50-51(1983)**

**COUNT 2: 42 U.S.C. § 1983 and 1985 (2) (3) CONSPIRACY,**

1. At all times relevant, the conduct of all Defendant's was subject to 42 U.S.C. § 1983 and 1985. Defendants have constantly obstructed justice according to law.
2. Obstructing justice; intimidating party, witness, or juror clearly justice was obstructed through conspiracy.

3. Plaintiff was deprived of rights and privileges. Two or more persons did conspire to go in disguise depriving, then Defendant of a fair court proceeding and equal protection of the law. Giving Plaintiff an action for the recovery of damages occasioned by such injury or deprivation, any one or more of the conspirators. Defendants are guilty of conspiracy with another person or persons to commit a crime if with the purpose of promoting or facilitating its commission he: (a) agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or (b) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime. Crime of conspiracy is distinct from the crime contemplated by the conspiracy (target crime), Com. v Dyer **243 Mass. 472, 509, 138 N.E. 296, 314** Members need not know all the details of the plan or the operations; he must, however, know the purpose of the conspiracy and agree to become a party to a plan to effectuate that purpose. Craig v U.S., C.C.A.Cal., **81 F.2d 816, 822.**

WHEREFORE, Byron Harper demands judgment for violation of 42 U.S.C. 1985 against all Defendants in his/her Official capacity, for actual, general, special, compensatory damages in the amount of \$100,000 and further demands judgment against each said Plaintiff's jointly and severally, punitive damages in the amount of \$10,000, plus the costs of this action, and such other relief deemed to be just and equitable. Punitive damages are recoverable in §1985 suit where defendant's conduct is motivated by an evil motive or intent, or where it involves reckless or callous indifference to plaintiff's federally protected rights.

**COUNT 3: VIOLATION OF 42 U.S.C. §1983:  
REFUSING OR NEGLECTING TO PREVENT**

1. At all times relevant to this complaint Defendants conspired to violate the rights, privileges, and immunities guaranteed to Petitioner by the Constitution and laws of the United States and the laws of the State of Texas.
2. Otherwise depriving then defendant of his constitutional and statutory rights, privileges, and immunities.
3. At all times relevant to the matter, defendants neglected to prevent an injury to petitioner, knowing that they possessed no order to hinder, and impede on Petitioners rights.
4. Also, not having sufficient evidence to proceed with any court procedure against Petitioner.
5. At no time did the Officials have any facts to proceed with the charges.

WHEREFORE, Byron Harper demands judgment against all Defendants for actual and general damages in the amount of \$100,000 and further demands judgment against said Officials in their personal capacity \$10,000.

**COUNT 4: VIOLATION OF 42 U.S.C. 14141**

1. At all times relevant herein, the conduct of all Defendant's was subject to 42 U.S.C. § 14141. Defendants have constantly obstructed justice according to law.
2. The Defendants have acted under "color of law" willfully to deprive Plaintiff a right protected by the Constitution and U.S. Law.
3. The Defendants have acted under "color of law" willfully to conspire to deprive Plaintiff of a right protected by the Constitution and U.S. Law.
4. Plaintiff has been falsely imprisoned, and unconstitutionally incarcerated.

5. The Defendants have tampered with evidence.

WHEREFORE, Plaintiff demands judgment against all Defendants for actual and general damages in the amount of \$100,000 and further demands judgment against said Officials in their personal capacity \$10,000.

**COUNT 5: MALICIOUS ABUSE OF PROCESS**

The Defendants in this action alleges that the Defendants are liable for abuse of process. There are two basic elements necessary to sustain the cause of action of abuse of process. They are (1) that the Defendants made an improper, illegal and perverted use of the legal procedure, that is to say, his/her resort to the legal process was neither warranted nor authorized by law, and (2) that Defendants had an ulterior motive in initiating the legal process. In other words, abuse of process is the misuse or misapplication of the legal procedure in a manner not contemplated by law. Officials have intentionally, maliciously abused the legal process to damage Plaintiff. Abuse of process differs from malicious prosecution in that the gist of the tort is not commencing an action or causing process to issue without justification, but misusing, or misapplying process justified in itself for an end other than that which it was designed to accomplish. The purpose for which the process is used, once it is issued, is the only thing of importance. Consequently, in an action for abuse of process it is unnecessary for defendant to prove that the proceeding has terminated in his favor, or that the process was obtained without probable cause or in the course of a proceeding begun without probable cause. It is often said that proof of "malice" is required; but it seems well settled that, except on the issue of punitive damages, this does not mean spite or ill will, or anything other than the improper purpose itself for which the process is used, and that even a pure spite motive is not sufficient where process is used only to accomplish the result for which it was created. The elements necessary to sustain that claims are the use of process in a manner improper in the regular conduct of the proceeding and the existence of an ulterior

motive. Nadeau v State, 395 A. 2d 107, 117 Me. (1978) Malicious prosecution is the common ingredient of an improper purpose, i.e., using court proceedings primarily to gain a private advantage, because of hostility and ill will, and without belief by the accuser in the guilt of the accused. Defendants maliciously used the “legal abuse of process” to accomplish some ulterior purpose for which it was not designed or intended, or which was not the legitimate purpose of the particular process employed. Caroll v Gillispie, 14 Mass. App. Ct. 12, 26 (1982). Defendants knew that they did have sufficient evidence to file the charges. The Plaintiff was never prosecuted in the proper manner. This provided fraudulent charges against Petitioner.

WHEREFORE, Byron Harper demands judgment against all Defendants for actual and general damages in the amount of \$100,000 and further demands judgment against said Officials in their personal capacity \$10,000.00.

**COUNT 6: TITLE 18 241 & 242 Conspiracy**

All Defendants have conspired to deprive Plaintiff of his Constitutional rights. “A private party maybe considered to have acted under color of state law, however, when he engages in a conspiracy or acts in concert with state agents to deprive a Defendant of his constitutional rights.” Tower v Glover, 467 U.S. 914, 920 (1984); Fonda v Gray, 707 F.2d 435, 437 (9<sup>th</sup> Cir.1983). “Counties may be liable for damages arising from civil rights violations if the alleged deprivation of rights resulted from an official policy, practice, or custom.” Monell v New York Department of Social Services, 436 U.S. 658, 694 (1978).

WHEREFORE, Byron Harper demands judgment against all Defendants for actual and general damages in the amount of \$100,000.00 and further demands judgment against said Officials in their personal capacity \$10,000.00.

**COUNT 7: INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

1. Officials acted intentionally or recklessly; and
2. Official's conduct was extreme and outrageous; and
3. Official's acts are the cause of the distress; and
4. Byron Harper suffers severe emotional distress as a result of Officials conduct.

Some general factors that will persuade that the conduct was extreme and outrageous: (1)

There was a pattern of conduct, not just an isolated incident; (2) the plaintiff was vulnerable and the defendants knew it; (3) the defendants were in a position of power; (4) Defendants intentionally maliciously, harassed, defamed, and emotionally distress Plaintiff.

**Hustler Magazine v Falwell 485 U.S. 46 (1988)** Extending standard to intentional infliction of emotional distress. A person may be liable for false imprisonment not only when the person's own acts directly impose a restraint upon the liberty of another but also when that person, by providing false information, causes such restraint to be imposed. "Extreme and outrageous conduct is not required if the emotional distress resulted from the commission of another tort."

**American Velodur Metal, Inc. v Schinabek. 20 Mass. App. Ct. 460, 470-471 (1985).**

WHEREFORE, Byron Harper demands judgment against Defendants for actual and general damages in the amount of \$100,000.00 and further demands judgment against said Officials in their personal capacity \$10,000.00.

**COUNT 8: MAIL FRAUD**

Defendants intentionally sent correspondence via U.S. Mail to Petitioner, when they fraudulently sent mail pertaining to a null and void case. The use of the mails to defraud is a federal offense requiring the government to prove a knowing use of the mails to execute the fraudulent scheme. **U.S. Dondich (C.A.Cal.), 506 F.2d 1009.** Elements of "mail fraud" are a scheme to defraud and the mailing of a letter for the purpose of executing the scheme. **U.S. v Scoblick, D.C.Pa., 124 F. Supp. 881, 887.** See 18 U.S.C.A. §§1341, 1342 See using mail to

defraud.

WHEREFORE, Plaintiff demands judgment against all Defendants for actual and general damages in the amount of \$100,000 and further demands judgment against said Officials in their personal capacity \$10,000.

**COUNT 9: 18 U.S.C. 872 EXTORTION**

1. At all times relevant herein, the conduct of all Defendants are subject to 18 U.S.C. 872.
2. A warrant and request for bail was issued without proof or evidence an actual crime happened. And predicated on an fraudulent affidavit being filed.
3. An initial \$1000.00 bail amount was assessed without proof of Jurisdiction.
4. An initial \$1000.00 bail amount was assessed without a Delegation of Authority.
5. An initial \$1000.00 bail amount was assessed based on an unconstitutional code / statute.
6. Issuing a warrant and assessing a bail in disregard for numbers (2-5) listed above in Count 9 is denial of due process. Asking for money when due process has been denied is Extortion. This asking for money even though denial of due process has occurred has happened several times and the amounts asked each time have been outrageous.

WHEREFORE, Byron Harper demands judgment against all Defendants for actual and general damages in the amount of \$100,000 and further demands judgment against said Officials in their personal capacity \$10,000.

**COUNT 10: VIOLATION OF EIGHTH AMENDMENT  
OF US CONSTITUTION (EXCESSIVE BAIL)**

1. Judge Standley without proof of jurisdiction and proper authority revoked initial bond amount of \$1000. 00 on July 16, 2012. Because jurisdiction and authority of the court was challenged which is my constitutional right. **The claim and exercise of Constitutional Rights cannot be converted into a crime, Miller v Kansas, 230 F 2nd 486, 489:**

2. Judge Standley increased bond 50 times higher to \$50,000.00 on July 12, 2012.
3. This amount is unreasonably high for a class B misdemeanor. Especially for someone with no prior criminal history. There have been serious felonies and murder cases with smaller bonds.
4. The unnecessary revoking of the \$1000.00 bond and the excessively high amount of a \$50,000.00 bond caused me to spend 30 plus days in involuntary servitude, being falsely imprisoned, and unconstitutionally incarcerated.

WHEREFORE, Byron Harper demands judgment against all Defendants for actual and general damages in the amount of \$100,000 and further demands judgment against said Officials in their personal capacity \$10,000.

**COUNT 11: VIOLATION OF 18 U.S.C. 1513 RETALIATION**

1. At all times relevant herein, the conduct of all Defendant's is subject to 42 U.S.C. § 14141. Defendants have constantly obstructed justice according to law.
2. On June 3, 2013 a federal lawsuit was filed against above name defendants.
3. On June 4, 2013 a notice of removal for case # 1829878 and 1893370 was filed in the court record *See Exhibit D*. Once this was completed the cases were officially move to federal court. All activities regarding the cases should have stopped at the county level. Due to the fact the cases were moved to a higher court for civil rights violations.
4. On June 5, 2013 warrants for failure to appear were issued and bond revoked. Why? The cases were moved on June 4, 2013. Once a case is moved it's moved. I don't have to show up to court to announce I'm moving the case. As soon as written notice is filed it's a done matter. Just like the County Court's activity should stop. My interaction and activity with the County Court stops. Once the court received written notice the cases were move on June 4<sup>th</sup>. From that time forward everything became a federal matter.

5. Revoking bond and issuing warrants after the cases were moved to Federal Court is Retaliation. Because of this retaliation I was unconstitutionally incarcerated for 7 days.

. WHEREFORE, Byron Harper demands judgment against all Defendants for actual and general damages in the amount of \$100,000 and further demands judgment against said Officials in their personal capacity \$10,000.

#### **TAKE JUDICIAL NOTICE**

Every person representing the government whether it's Federal, State, County ,or City as an attorney, judge, peace officer or prosecutor. Before he / she is accepted in their office or position. Solemnly swears, to support the United States Constitution. The U.S. Supreme Court has stated that "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958). **Under Federal law which is applicable to all states**, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." Elliot v Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828). When judges act when they do not have jurisdiction to act, or they enforce a void order (an order issued by a judge without jurisdiction), they become trespassers of the law, and are engaged in treason. "If the magistrate has not such jurisdiction, then he and those who advise and act with him, or execute his process, are trespassers." Von Kettler et.al. v Johnson, 57 Ill. 109 (1870). The U.S. Supreme Court, in Scheuer v Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974) stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he "comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." By law, a judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the Supreme Law of the Land. The judge is engaged in acts of treason. Having taken, oaths of office to support the Constitution of the United States, and the Constitution of the State of Texas, any judge who has acted in violation of the Constitution is engaged in an act or acts of treason. If a judge does not fully comply with the Constitution, then his orders are void, In re Sawyer, 124 U.S. 200 (1888), he/she is without jurisdiction, and he/she has engaged in an act or acts of treason. "Whenever a judge acts where he/she does not have jurisdiction to act, the judge is engaged in an act or acts of treason." U.S. v Will, 449 U.S. 200, 216, 101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980); Cohens v Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821). Judges have given themselves judicial immunity for their judicial functions. Judges have no judicial immunity for criminal acts, aiding, assisting, or conniving with others who perform a criminal act, or for their administrative/ministerial duties. When a judge has a duty to act, he does not have discretion - he is then not performing a judicial act, he is performing a ministerial act. Judicial immunity does

not exist for judges who engage in criminal activity, for judges who connive with, aid and abet the criminal activity of another judge, or to a judge for damages sustained by a person who has been harmed by the judge's connivance with, aiding and abetting, another judge's criminal activity. Pursuant to **18 U.S.C. § 2-4** A judge who does not report the criminal activities of another judge becomes a principal in the criminal activity. Since the judge has not reported the criminal activity of the convicted judge. The non-reporting judge is as guilty as the convicted judge. Any judge or attorney who does not report a judge for treason as required by law may themselves be guilty of Misprison of Treason, **18 U.S.C. Section 2382**. In addition, public servant violators of **18 U.S.C. 241 & 242** can be criminally prosecuted by the US Attorney General.

### FACTS

1. It is a sin for any group of people to violate the Constitutional Laws of a Free National Government. **U.S. v Morris, 125 F 322, 325.** "Every citizen and freeman is endowed with certain rights and privileges to enjoy which no written law or statute is required. These are the fundamental or natural rights, recognized among all free people."
2. **The Lawful definition of a Competent Court is:** A court either civil or criminal, having lawful jurisdiction. **In regard to courts of inferior jurisdiction,** "if the record does not show upon its face the facts necessary to give jurisdiction, they have presumed not to have existed." **Norman v Zieber, 3 Or at 202-03.**
3. Unrepresented Parties are not attorneys, and therefore are not subject to be held to the levels and standards of an attorney regarding any responses, demands, or motions or pleadings. In any code citations, case citations, and Constitutional citations, ***any and all emphasis employed herein*** may be construed to have been added. This court is hereby put upon mandatory notice to observe the determinations of the Supreme Court of the United States, in the case **Puckett v Cox 456 F2d 233 (1972 Sixth Circuit USCA)** where it was held that a pro-se complaint requires a less stringent reading than one drafted by an attorney, said by Justice Black in **Conley v Gibson, 355 U.S. 41 at 48(1957):**

"The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." **According to rule 8(f) FRCP all pleadings shall be construed to do substantial justice.**"

4. The Statutes and Codes used to prosecute case # 1829878 and 1893370 are in direct conflict of the 10<sup>th</sup> amendment of the United States Constitution as stated on record July 16, 2012 ***See Exhibit E.*** See Supreme Court ruling **Bond v US** decided June 16, 2011. Because of this ruling many case are being overturned. If the State of Texas which includes the HARRIS COUNTY CRIMINAL COURTS, have established, within their private capacity, and / or in consort with some

other association, establishment, agency, sub-charter or chapter, etc.; some additional rules, regulations, statutes and ordinances, they must act within the Law, and cannot abrogate the Supreme Law of the Land, and must follow the defines of Article VI, and they must acknowledge any and all supportive **Supreme Court Stare Decisis**, which in fact, and in Law, applies to them.

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed." **Norton v Shelby County, 118 U.S. 425.**

"The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law." **Marbury v Madison, 5 US 137.** "The court is to protect against any encroachment of Constitutionally secured liberties." **Boyd v U.S., 116 U.S. 616.** "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." **Cooper v Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958).** "A court cannot acquire jurisdiction to try a person for an act made criminal only by an unconstitutional law, and thus, an offense created by an unconstitutional statute is no longer a crime and a conviction under such statute cannot be a legal cause for imprisonment." **State v Benzel, 583 N.W.2d 434, 220 Wis.2d 588 (1998).**

5. The unconstitutional charges being applied to this Petitioner are not in pursuance of the Constitution for the United States of America. Wherein it does guarantee, and this Petitioner does declare the equal protection of the right to "life liberty and the pursuit of happiness" in the 1<sup>st</sup> Amendment.
6. The unconstitutional charges being applied to the Petitioner are repugnant to the Constitution because they deny a right established and guaranteed in the 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, and 10<sup>th</sup> Amendments, and in United States Supreme Court '**Stare Decisis**' so noted above, where this court has no authority to adjudicate contrary.
7. Penal code 42.092. CRUELTY TO NONLIVESTOCK ANIMALS used for cases 1829878 and 1893370 is unconstitutional, it must be "Certified as Constitutional".
8. **Affidavit** - A voluntary declaration of facts written down and sworn to by the declarant before an officer authorized to administer oaths, such as a notary public. **Blacks Law 8<sup>th</sup> edition.** Affiant could not make a declaration of facts because she had no firsthand knowledge of what took place. Beliefs do not count. "**No valid conviction can occur if the charging instrument is void.**" **State v Wilson, 6 S.W. 3d 504 (1998).**
9. **Fraud** - A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. • Fraud is usu. a tort, but in some cases (esp.when the conduct is willful) it may be a crime. A misrepresentation made Recklessly without belief in its truth to induce another person to act. A tort arising From a knowing misrepresentation, concealment of material fact, or reckless misrepresentation made to induce another to act to his or her detriment. **Blacks Law.**

**Corruption in the judiciary is worse than corruption in any other branch of government."**

**-- Judge Ginger Berrigan, 2004**

**US Supreme Court in US vs. Minker, 350 US 179 at page 187:** "Because of what appears to be a lawful command on the surface, many citizens, because of their respect for what only appears to be a law, are cunningly coerced into waiving their rights, due to ignorance."

"Associate Justice WILLIAM O. DOUGLAS once wrote, "[W]here police take Matters into their own hands, seize victims, beat and pound them until they confess, There cannot be the slightest doubt that the police have deprived the victim of a right under the constitution. It is the right of the accused to be tried by a legally constituted court, not by a kangaroo court". (**Williams v United States, 341 U.S. 97, 71 S. Ct. 576, 95 L. Ed. 774 [1951]**).

"Fraud is an intentional perversion of truth for the purpose of inducing another, in reliance upon it, to part with some valuable thing belonging to him or to surrender a legal right. It is a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury." **Brainerd Dispatch Newspaper Co. v Crow Wing County, 196 Minn. 194, 264 N.W. 779, 780.** "Fraud is any kind of artifice Employed by one person to deceive another." **Goldstein v Equitable Life Assur. Soc. Of U.S., 160 Misc. 364, 289 N.Y.S. 1064, 1067.** "Fraud is a generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated." **Johnson v McDonald, 170 Okl. 117, 39 P.2d 150.** "Bad faith" and "fraud" are synonymous and also synonyms of dishonesty, infidelity, faithlessness, perfidy, unfairness, etc. **Joiner v Joiner, Tex.Civ.App., 87 S.W. 2d 903, 914, 915.**

10. Judge Standley and Prosecution committed fraud through silence by not answering Important questions about Jurisdiction, Delegation of Authority and the Bonding of the case. "Fraud and deceit may arise from silence where there is a duty to speak the truth, as well as from speaking an untruth." **Morrison v. Coddington, 662P. 2d 155, 135 Ariz. 480 (1983)** "Fraud in its elementary common law sense of deceit. Includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public and if he deliberately conceals mater information from them he is guilty of fraud". **McNally v U.S., 483 U.S. 350, 371- 372,** Quoting **U.S. v Holzer, 816 F.2d. 304, 307.** "Silence can only be equated With fraud when there is a legal and moral duty to speak or when inquiry left unanswered would be intentionally misleading. We cannot condone this shocking conduct. If that is the case we hope our message is clear. This sort of [abuse] deception [human trafficking and other indirect acts of genocide] will not be tolerated

and if this is routine it should be corrected immediately." U.S. v Prudden, 424 F. 2d. 1021; U. S. v Tweel, 550 F. 2d. 297, 299, 300 (1977).

11. A judge is an officer of the court, as well as are all attorneys. *A judge is not the court.* People v Zajic, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980). Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". "Fraud upon the court" makes void the orders and judgments of that court." "Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." Under Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void, of no legal force or effect. JUDGE LARRY STANDLEY has committed a fraud upon the court. The court, therefore, was deprived of subject matter jurisdiction.

### DUE PROCESS OF LAW

(As Defined By Blacks Law Dictionary Fourth Edition)

**"Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safe guards for the protection of individual rights as those maxims prescribe for the class of cases to which one in question belongs."**

**"They then mean a course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights. To give such proceedings any validity, there must be a tribunal competent by its constitution – that is, by the law of its creation-to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by service of process within that state, or his voluntary appearance."**

**"Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or other wise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, this is not due process of law"**

**"The Essential elements of "due process of law" are notice and opportunity to be heard and to defend in orderly proceeding adapted to nature of case, and the guarantee of due process requires that every man have protection of day in court benefit of general law."**

**"A law which hears before it condemns, which proceeds on inquiry and renders judgment only after trial."**

12. **In a criminal matter**, there must exist an injured party, of which I would be obligated to make remedy to. A sworn affidavit by an injured party was not produced. I was denied my right to face my accuser face to face. In addition, there is no corpus delecti or injured party. "For a crime to exist, there must be an injured party (Corpus Delicti) There can be no sanction or penalty imposed on one because of this Constitutional right Serer v. Cullen 481 F. 945." State can not be injured party. When defendant is deprived of due process, the court is deprived of subject matter jurisdiction.
13. The 5<sup>th</sup> Amendment requires that all persons within the United States must be given due process of the law and equal protection of the law.
14. Defendant Judge Larry Standley is in tacit agreement to not having jurisdiction on July 7, 2012 by acquiescing to affidavit submitted June 7, 2012 *See Exhibit F*. Byron Harper, is a Sovereign, County of HARRIS is a corporation and therefore a fiction; HARRIS COUNTY Criminal Court at Law #6 in Houston, Texas is a fiction, and may not claim jurisdiction over the Sovereign. The STATE OF TEXAS is a private foreign for profit corporation. It, an inanimate fictitious entity cannot bring charges against a flesh and blood sentient being. Court should not have proceeded due to a lack of in personam jurisdiction. A judge that makes decisions, that has not properly established jurisdiction, loses judicial immunity and becomes liable to civil action. The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings." Hagans v Lavine, 415 U. S. 533. "A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a void order can be challenged in any court" OLD WAYNE MUT. L. ASSOC. v. McDONOUGH, 204 U. S. 8, 27 S. Ct. 236 (1907). "In legal prosecution, all legal requisites must be complied with to confer jurisdiction on the court in criminal matters. as district attorney cannot confer jurisdiction by will alone." People v Page, 667 N.Y.S.2d 689, 177 Misc.2d 448 (1998). "Without jurisdiction, criminal proceedings are a nullity." State v Inglis, 592 N.W. 2d 666, 274 Wis.2d 764 (1999)."Only Congress can make an act a crime, affix punishment to it, and declare court that shall have jurisdiction." U.S v Beckford, 966 F.Supp. 1415 (1997).
15. Defendant Judge Larry Standley failed to provide proof of jurisdiction when jurisdiction was challenged on record in court on July 16, 2012 *See Exhibit G and H*. ("Where jurisdiction is contested, the burden of establishing it rests upon the plaintiff."). The law places the duty and burden of subject-matter jurisdiction upon the plaintiff. Should the court attempt to place the burden upon the

defendant, the court has acted against the law, violates the defendant's due process rights, and the judge has immediately lost subject-matter jurisdiction. The court acceded to fraud when it continued to "presume" jurisdiction it did not have. Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but rather should dismiss the action. **Melo v US, 505 F2d 1026.** "In a criminal action, the trial court must not only have jurisdiction over the offense charged, but over the question which the judgment presumes to decide." **State v Kraushaar, 957 P.2d 1106, 264 Kan. 667.** "In legal prosecution, all legal requisites must be complied with to confer jurisdiction on the court in criminal matters. As district attorney cannot confer jurisdiction by will alone." **People v Page, 667 N.Y.S.2d 689, 177 Misc.2d 448 (1998).** Criminal law magistrates have no power of their own and are unable to enforce any ruling." V.T.C.A. Government Code sec. 54.651 et seq. **Davis v. State, 956 S.W. 2d 555 (1997).**

16. Judge Standley never provided proof of (DOA) Delegation of Authority when requested pursuant to Article III Section 1 of United States Constitution **See Exhibit I.** Written proof of "Certified Delegation of Authority Order" should have been provided before he took any action against Byron Harper. He is responsible for the injury he has caused Plaintiff by usurping the authority of the Supreme Court. Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a Court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." **Elliot v Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).**
17. **Extortion** - The offense committed by a public official who illegally obtains property under the color of office; esp., an official's collection of an unlawful fee. The act or practice of obtaining something or compelling some action by illegal means, as by force or coercion.
18. The Constitution for the United States of America binds all judicial officers at Article 6, wherein it does say, "This Constitution and the Laws of the United States which shall be made in pursuance thereof, and all Treaties made, or which shall be made under the authority of the United States, shall be the Supreme Law of the Land, and the Judges of every State shall be bound thereby, anything in the Constitution or laws of any state to the Contrary, notwithstanding," see Clause 2. Judge Standley's Oath is to the constitution first and foremost **See Exhibit J.** He has violated his Oath to uphold the United States Constitution.
19. Judge Standley was asked to recuse himself from the case due to an unwarranted excessive bond increase and his partiality **See Exhibit K.** Federal law requires the automatic disqualification of a judge under certain circumstances. In 1994, the U.S. Supreme Court held that "**Disqualification**" is required if an objective observer would entertain reasonable questions about the judge's impartiality. If a judge's attitude or state of mind leads a detached observer to

conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." [Emphasis added]. **Liteky v U.S.**, 114 S.Ct. 1147, 1162 (1994). Courts have repeatedly held that positive proof of the partiality of a judge is not a requirement, only the appearance of partiality. **Liljeberg v Health Services Acquisition Corp.**, 486 U.S. 847, 108 S.Ct. 2194 (1988) (whatMatters is not the reality of bias or prejudice but its appearance); **United States v Balistreri**, 779 F.2d 1191 (7th Cir. 1985) (**Section 455(a)**) "is directed against the appearance of partiality, whether or not the judge is actually biased.") ("**Section 455(a) of the Judicial Code**, 28 U.S.C. §455(a), is not intended to protect litigants from actual bias in their judge but rather to promote public confidence in the impartiality of the judicial process."). That Court also stated that **Section 455(a)** "requires a judge to recuse himself in any proceeding in which her impartiality might reasonably be questioned." **Taylor v O'Grady**, 888 F.2d 1189 (7th Cir. 1989). In **Pfizer Inc. v. Lord**, 456 F.2d 532 (8th Cir. 1972), the Court stated that "It is important that the litigant not only actually receive justice, but that he believes that he has received justice." The Supreme Court has ruled and has reaffirmed the principle that "justice must satisfy the appearance of justice", **Levine v United States**, 362 U.S. 610, 80 S.Ct. 1038 (1960), citing **Offutt v United States**, 348 U.S. 11, 14, 75 S.Ct. 11, 13 (1954). A judge receiving a bribe from an interested party over which he is presiding, does not give the appearance of justice. "**Recusal under Section 455** is self-executing; a party need not file affidavits in support of recusal and the judge is obligated to recuse himself *sua sponte* under the stated circumstances." **Taylor v O'Grady**, 888 F.2d 1189 (7th Cir. 1989). Further, the judge has a legal duty to disqualify even if there is no motion asking for his disqualification. The Seventh Circuit Court of Appeals further stated that "We think that this language [**455(a)**] imposes a duty on the judge to act *sua sponte*, even if no motion or affidavit is filed." **Balistreri**, at 1202. Judges do not have discretion not to disqualify themselves. By law, they are bound to follow the law. Should a judge not disqualify himself as required by law, then the judge has given another example of his "appearance of partiality" which, possibly, further disqualifies the judge. Should another judge not accept the disqualification of the judge, then the second judge has evidenced an "appearance of partiality" and has possibly disqualified himself/herself. None of the orders issued by any judge who has been disqualified by law would appear to be valid. It would appear that they are void as a matter of law, and are of no legal force or effect. Should a judge not disqualify himself, then the judge is violation of the **Due Process Clause of the U.S. Constitution**. **United States v Sciuto**, 521 F.2d 842, 845 (7th Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on Section 144, but on the Due Process Clause."). Should a judge issue any order after he has been disqualified by law, and if the party has been denied of any of his / her property, then the judge may have been engaged in the Federal Crime of "**interference with interstate commerce**". The judge has acted in the judge's personal capacity and not in the judge's judicial capacity. It has been said that this judge, acting in this manner, has no more lawful authority than someone's next-door neighbor (provided that he is not a judge). However some judges may not follow the law. As a non-represented litigant, and when the court does not follow the law as to non-represented litigants, then the judge has expressed an "appearance of partiality" and, under the law, it would seem

that he/has disqualified himself. However, since not all judges keep up to date in the law, and since not all judges follow the law, it is possible that a judge may not know the ruling of the U.S. Supreme Court and the other courts on this subject. Notice that it states "**disqualification is required**" and that a judge "must be disqualified" under certain circumstances. The Supreme Court has also held that if a judge wars against the Constitution, or if he acts without jurisdiction, he has engaged in treason to the Constitution. If a judge acts after he has been automatically disqualified by law, then he is acting without jurisdiction, and that suggest that he is then engaging in criminal acts of treason, and may be engaged in extortion and the interference with interstate commerce. Courts have repeatedly ruled that judges have no immunity for their criminal acts. Since both treason and the interference with interstate commerce are criminal acts, no judge has immunity to engage in such acts.

20. Judge Standley is in violation **28 USC 455** because is being compensated by the County and therefore taking bribes. Any and all of his Actions, Decisions, Judgments, and Orders he has made that have negatively impacted defendants are void. Each injured defendant is entitled to full compensation for their injury. "Judicial action taken after the trial court's plenary power has expired is void." See State ex. rel Latty v Owens, 907 S.W.2d 484, 486 (Tex. 1995); see also Mapco, Inc. v Forrest, 795 S.W.2d 700, 703 (Tex. 1990) (defining a **void judgment** as one rendered when a court has no jurisdiction over the parties or subject matter, no jurisdiction to render judgment, or no capacity to act as a court). A party affected by void judicial action need not appeal. State ex rel. Latty, 907 S.W.2d at 486. If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case. "A **void judgment** is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel, 39 S.W.3d 221, 225 (Tex. Crim. App. 2001). A **Void Judgment** Is a **Void Judgment** Is a **Void Judgment**-Bill of Review and Procedural Due Process in Texas, 40 Baylor L. Rev. 367, 378-79 (1988). See Thomas, 906 S.W.2d at 262 (holding that trial court has not only power but duty to vacate a **void judgment**). A judgment is void when it is clear that the court rendering judgment had no jurisdiction over the parties or subject matter, no jurisdiction to render judgment, or no capacity to act as a court. When appeal is taken from a void judgment, the appellate court must declare the judgment void. Because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A **void judgment** may be attacked at any time by a person whose rights are affected. See El-Kareh v Texas Alcoholic Beverage Comm'n, 874 S.W.2d 192, 194 (Tex. App.--Houston [14<sup>th</sup> Dist.] 1994, no writ); see also Evans v. C. Woods, Inc., No. 12-99-00153-CV, 1999 WL 787399, at \*1 (Tex. App.--Tyler Aug. 30, 1999, no pet. h.). A **void judgment** is a "nullity" and can be attacked at any time. Deifik v. State, No. 2-00-443-CR (Tex.App. Dist.2 09/14/2001). "A **void judgment** is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Since the trial court's dismissal "with prejudice" was void, it may be attacked either by direct appeal or

collateral attack Ex parte Williams, No. 73,845 (Tex.Crim.App. 04/11/2001). "A **void judgment** is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). Since the trial court's dismissal "with prejudice" was void, it may be attacked either by direct appeal or collateral attack. See Ex parte Shields, 550 S.W.2d at 675. A void judgment can be collaterally attacked. See Glunz v Hernandez, 908 S.W.2d 253, 255 (Tex. App.-San Antonio 1995, writ denied); Tidwell v Tidwell, 604 S.W.2d 540, 542 (Tex. Civ. App.-Texarkana 1980, no writ) (finding that a **void judgment** may be collaterally attacked by a suit to set aside the judgment after it has become final if such **void judgment becomes material**). We agree. A collateral attack is any proceeding to avoid the effect of a judgment which does not meet all the requirements of a valid direct attack. See Glunz, 908 S.W.2d at 255. There is neither a set procedure for a collateral attack nor a statute of limitations. See Glunz, 908 S.W.2d at 255; Davis v Boone, 786 S.W.2d 85, 87 (Tex. App.-San Antonio 1990, no writ). Collateral attacks may be only used to set aside a judgment which is void, or which involved fundamental error. See Glunz, 908 S.W.2d at 255. **Fundamental error for this purpose means cases where the record shows the court lacked jurisdiction or that the public interest is directly and adversely affected as that interest is declared in the statutes or the Constitution of Texas.** A judgment is void if it is shown that the court lacked jurisdiction 1) over a party or the property; 2) over the subject matter; 3) to enter a particular judgment; or 4) to act as a court. Jurisdiction could not be conferred by waiver or retroactively ELNA PFEFFER ET AL. v ALVIN MEISSNER ET AL. (11/23/55) 286 S.W.2d 241. Strictly speaking a **void judgment** is one which has no legal force or effect whatever. It is an absolute nullity and such invalidity may be asserted by any person whose rights are affected, at any time and at any place. It need not be attacked directly, but may be attacked collaterally whenever and wherever it is interposed. Usually it carries the evidence of its invalidity upon its face. Such vice may be the want of jurisdiction over the person or other similar fundamental deficiency, but which vice does not affirmatively appear upon the face of the judgment. BILLY DUNKLIN v A. J. LAND ET UX. 297 S.W.2d 360 (12/21/56). Where a void judgment has been rendered and the record in the cause, or judgment roll, reflects the vice, then the court has not only the power but the duty and even after the expiration of the term to set aside such judgment. Harrison v Whiteley, Tex.Com.App., 6 S.W.2d 89. This court in Neugent v Neugent, Tex.Civ.App., 270 S.W.2d 223, followed and applied the rule announced in the Harrison-Whiteley case. The Supreme Court, speaking through Folley, Commissioner, in Bridgman v Moore, 143 Tex. 250, 183 S.W.2d 705, at page 707, said: "The court has not only the power but the duty to vacate the inadvertent entry of a **void judgment** at any time, either during the term or after the term, with or without a motion therefore. We will not extend this discussion further than to state that we here reaffirm the holding on the point involved as announced by Justice Hightower in the former appeal (301 S.W.2d 181). While this holding was premature in view of the action of the Supreme Court (304 S.W.2d 265) reversing our holding, it was not upon the points discussed in Justice

Hightower's opinion, but was on the point that since the judgment appealed from was an interlocutory one and not final, the appeal should be dismissed. However, we think our holding then is now appropriate." A *void judgment* has been termed mere waste paper, an absolute nullity; and all acts performed under it are also nullities. Again, it has been said to be in law no judgment at all, having no force or effect, conferring no rights, and binding nobody. It is good nowhere and bad everywhere, and neither lapse of time nor judicial action can impart validity. **Commander v Bryan**, 123 S.W.2d 1008, (Tex.Civ.App., Fort Worth, 1938, n.w.h.); 34 Tex.Jur., Sec. 262, page 177; **Maury v Turner**, 244 S.W. 809, (Tex.Com.App., 1922). Also, a *void judgment* has been defined as "one which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at anytime and at any place directly or collaterally." Black's Law Dictionary; **Reynolds v Volunteer State Life Ins. Co.**, 80 S.W.2d 1087, (Tex.Civ.App., Eastland, 1935, writ ref.); **Gentry v. Texas Department of Public Safety**, 379 S.W.2d 114, 119, (Tex.Civ.App., Houston, 1964, writ ref., n.r.e., 386 S.W.2d 758). It has also been held that "It is not necessary to take any steps to have a *void judgment* reversed, vacated, or set aside. It may be impeached in any action direct or, collateral." **Holder v Scott**, 396 S.W.2d 906, (Tex.Civ.App., Texarkana, 1965, writ ref., n.r.e.).

21. Any and all orders Judge Stanley made after the fraudulent affidavit was signed and filed on record are void. Which includes, but is not limited to bonds and warrants.
22. Judge Standley is in violation of **28 USC 454** for "Lawyering From The Bench". Without a power of attorney *See Exhibit L*.
23. As a Magistrate who should be well versed in law, JUDGE LARRY STANDLEY knowingly committed fraud as he knowingly has been administering in a capacity which he does not have jurisdiction, delegation of authority, or judicial powers delegated from the federal legislature. "A judge ceases to sit as a judicial officer because the governing principle of administrative law provides that courts are prohibited from substituting their evidence, testimony, record, arguments, and rationale for that of the agency. Additionally, courts are prohibited from substituting their judgment for that of the agency. Courts in administrative issues are prohibited from even listening to or hearing arguments, presentation, or rational." **ASIS v US**, **568 F2d 284**. "When acting to enforce a statute and its subsequent amendments to the present date, the judge of the municipal court is acting as an administrative officer and not in a judicial capacity; courts in administering or enforcing statutes do not act judicially, but merely ministerially." **Thompson v Smith**, **154 SE 583**. "Ministerial officers are incompetent to receive grants of judicial power from the legislature, their acts in attempting to exercise such powers are necessarily nullities." **Burns v Sup.**, Ct., SF, **140 Cal. 1**.
24. Note that the presiding judge, and any judge acting as organ of the court, is aware that **42 USC 1986** requires the person(s) adjudicating legal processes, to correct wrongs, and that their failure to correct the wrongs that were addressed constitutes Fraud under Rule 9(b) of the FRCP, cross referenced to **28 USC 1746**, and that this Fraud constitutes a Perjury on the Oath of Office at **18 USC 1621**, deprives us of

rights, at **18 USC 241, and 242**, Conspires to deprives rights at **42 USC 1985**; is an extortion of rights at **18 USC 872**, and is actionable under **42 USC 1983**.

25. Evidence of tampering with evidence. Someone has deliberately tried to make it appear Affidavit filed into the record June 7, 2012 was filed in the record July 7, 2012. This activity is shameful *See Exhibit M and N.*

26. A **Title 42 1983 or Title 42 14141** lawsuit can be filed anytime during a criminal case. In addition, after title 42 is filed. County criminal cases can be moved to Federal Court.

27. "Petitioner asserts "Where rights secured by the Constitution are involved, there can be no rule making or legislation, which would abrogate them" Miranda v. Arizona **384 U.S. 436, 491**.

28. The claim provided by Plaintiff has a right and/or title, *Orenberg v. Thecker, 143 F.2d 375, 377, 79 U.S. App.D.C. 149* The evidence shows cause of suit and/or cause of action, *Jacobson vs. Mutual Ben, Health & Accident Ass'n, 73 N.D. 108, 11 N.W.2d 442, 446*.

29. This Petitioner has no contract with HARRIS COUNTY CRIMINAL COURT NO. 6, or with the State of Texas; or with any other segment of the United States of America that can grant jurisdiction over human rights; or over political, economic, social and cultural rights of Indigenous Peoples. The Petitioner is not subject to the jurisdiction of the County Court.

30. The United States of America is a member of the United Nations, and is bound by the Charter of the United Nations to promote and protect the Rights of Indigenous Peoples. The United States of America is required to obey the requirements of the Declaration on the Principles of International Law and to obey the principles of international law enumerated therein. The Vienna Convention on the Law of Treaties requires that the United States of America fulfill its obligations incurred there-under.

31. **Executive Order Number: 13107**, 63, Federal Register, 68,991 (1998)- Implementation of Human Rights Treaties, which states "It shall be the policy and practice of the Government of the United States, being committed to the protection and promotion of human rights and fundamental freedoms, fully to respect and implement its obligations under the international human rights treaties to which it is a party including the ICCPR, the CAT, and the CERD." The United States has also, signed on to the U. N. Rights of Indigenous People, and U.N. Declaration of Human Rights. In addition, the American Bar Association has agreed it will follow the standards of the United Nations Guiding Principles On Business and Human Rights (UNGPs). HARRIS COUNTY CRIMINAL COURT NO. 6, by way of its Officers, Violated 'Due Process' and, conspired to deprive rights of the Petitioner; and did neglect to prevent. Deprivation of rights at **Title 18, U.S.C. 241** and **Title 18, U.S.C. 242**.

32. At all times relevant to the complaint all Defendants have civil liability to be upheld in this court of jurisdiction. The amenability to civil action as distinguished from amenability to criminal prosecution. Com. v Shimpeno, 160 Pa.Super. 104, 50 A.2d 39, 43. A sum of money assessed either as general, special or liquidated damage, either as general, special or liquidated damages, either single, double or treble for violation such as over charges. Lewis v. Anderson, D.C.Cal., 72 F. Supp, 119, 123.
33. I'm seeking protection under the **Whistleblower's Act** due to the fact I've been retaliated against and to prevent future retaliation.

### **CONCLUSION**

Defendants have violated Title 18 U.S.C. 241, 242, Obstructing of Justice. This is a violation of a Federal statute which is cognizable when the violation trammels a right secured by federal law.

Upon the preponderance of the evidence, facts, and exhibits a reasonable mind can determine a conspiracy against Byron Harper's rights. All of the Defendants are the "moving force" behind Byron Harper's deprivations Monell, 436 U.S. at 694. State Officials and Police Officers take an Oath of Office to uphold and protect the U.S. Constitution. Thereby definition federal, government, and State Officials, are to obey the U.S. Constitution, and statutes. To say otherwise, would leave out Defendants as having no responsibility to the Constitution and having no access to a Court for redress of grievances to hear violations of Plaintiff's Constitutional rights. Byron Harper has a right to expect that government and court officials would do their duty to protect me and my property. Instead, the Defendants engaged in conduct that was "arbitrary, or conscience shocking, in a constitutional sense". Collins v City of Harker Heights, Texas, 503 U.S. 115, 128 (1992); Rymer v. Douglas County, 764 F.2d 796, 801 (11<sup>th</sup> Cir. 1985). In addition to providing a remedy for deprivations of constitutional rights, section 1983 also, makes actionable violations of federal "Laws." Maine v. Thiboutot, 448 U.S. (1980).

**All of the Officials are not entitled to Official Immunity  
For the following reasons and other issues**

The actions of the Defendants violated clearly established Constitutional rights which a reasonable person would have known and recognized. The Defendants took the described actions with the malicious intent to cause injury to Plaintiff. State Official lacked jurisdiction to file a complaint. All of the Officials aided and abetted in a conspiracy to commit larceny. The issue is presented is thus clearly drawn. As preliminary matter let us consider two well-established legal doctrines pertinent in this case. First the corporation is liable for the tort of its agent when committed with the scope of the agent's authority and course of employment even though it did not authorize or ratify the tortuous acts. Russell v American Rock Crusher Co., 181, 894, 317 P.2d 847 (1957). A related rule of law states a principal is responsible for the torts of its agent where the tortuous acts are incidental to and in furtherance of the principal's business, even though outside the scope of the agent's authority. Williams v Community Drive-In Theater, Inc., 214 Kan. 359, 520 P.2d 1296(1974). Second punitive damages are appropriate when the elements of fraud, malice, gross negligence or oppression accompany the wrongful act. Such damages are awarded to punish the wrongdoer for his malicious, vindictive, willful or wanton invasion of the injured person's rights. They also serve as an example to restrain and deter others from the commission of such wrongs. Augusta Bank & Trust v Broomfield, 231 Kan. 52, 63, 643 P.2d 100(1982); Newton v Hornblower, Inc. 224 Kan. 506, 525, 582 P.2d 1136 (1978).

If the servant has committed a tort within the scope of his employment so as to render the Corporation liable for compensatory damages, and if the servant's act is such as to render him liable for punitive damages. Stroud v Denny's Restaurant, 271 Or. 430, 435, 532 P.2d 790 (1975). For Mens Rea it is necessary to prove that the purpose of the conspirators was to cause the victim economic loss" (per Lord Diplock vs. Scott) for the test of Dishonesty, see R v Ghosh

(1982) 2 All ER. "An official will not be excused from liability if he failed to observe obvious statutory or constitutional limitations on his powers or if his conduct was a manifestly erroneous application of the statute." Owen v City of Independence, 100 S. Ct. 1398, (1980) "This court also has held that the initiation of accusatory processes, such as criminal prosecutions or civil contempt proceedings, is a non-judicial act that **may subject a judge to liability.**" Sevier v Turner, 742 F.2d 262, 272 (6<sup>th</sup>Cir.1984)." Courts **enforcing mere statutes do not act judicially, but ministerially, having no judicial immunity** and unlike courts of law do not obtain jurisdiction by service of process nor even by arrest and compelled appearance." Boswell v Otis, 9 Howard 336 to 348. "There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is **nevertheless liable in a civil action** and cannot claim the immunity of the sovereign." Cooper v. O'Conner, 99 F.2d 133. "Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law." Maine v Thiboutot 448 US 1, 100 SCT 2502.

Judges, Prosecutors, and Police Officers do not have immunity. They are successfully prosecuted and sued daily. In January of this year 9 Judges were prosecuted by the Department of Justice. Judges are responsible for their actions and those they injure just like everybody else. A judge in Pennsylvania was recently sentenced to 28 years in prison and 4000 out of 5000 of his cases have already been overturned. In addition, he was ordered to pay \$1.2 million in restitution. His Co-Conspirator judge plead guilty and received a lesser sentence. Complaints against judges have risen 35 to 40 percent according Judge John D. Allen the interesting thing is that most of the complaints are coming from other judges who sit on the bench. He says, judges are more focused on their responsibilities and that has helped lead the effort to get rid of any bad apples in the courtroom. In his state 7 Superior State judges stepped down while facing allegations of misconduct. More judges are expected to resign due to judicial investigations. Pennsylvania State Supreme Court Justice Joan Orie Melvin was sentenced to 3 years house

arrest and \$55,000.00 in fines. Every judge and public servant is accountable for his / her action or inaction.

**RELIEF**

1. I, Byron Harper, demand Due Process as protected by the Fourth (4<sup>th</sup>) and Fifth (5<sup>th</sup>) Amendments of the Constitution for the United States of America (Republic).
2. I, Byron Harper, demand this United States District Court stop these abuses of the colorable authority by the Defendants as it pertain to this Petitioner.
3. I, Byron Harper, demand if any criminal charges be found, let them be placed upon the Defendants. I demand remedy in equity and law.
4. I, Byron Harper, demand this United States District Court view this Petitioner (in my Proper Person) as an Autonomous Autochthon AmErican American, Ab Origine Indigenous Sovereign (Natural Born Citizen of the Land) and not as a (brand) NEGRO, BLACKMAN (person), COLORED, AFRICAN-AMERICAN, or any other SLAVE TITLE or ‘nom de guerre’ imposed upon me for misrepresentation ‘Actions’ or other acts of ‘Misprision’ that a misdirected society may “believe” to be true.
5. I, Byron Harper do not, under any condition or circumstance, by threat, duress, or coercion, waive any rights Inalienable or Secured by the Constitution or Treaty, and, hereby requests the United States District Court to fulfill their obligation to preserve the rights of this Petitioner and carry out their Judicial Duty in ‘Good Faith’ by ordering Defendants to be brought before the Law to answer for their criminal and unjust actions.
6. All UNCONSTITUTIONAL Citations – Summons / Ticket – Suit / (misrepresented) Bill of Exchange: Number 1829878 and Number 1893370 (Case Numbers) and any other ‘Order’ or ‘Action’ associated with it / them, to be dismissed and expunged for the record on it’s face and merits.

7. All City, County and State Officials are to be informed of the Law of the Land (Constitution) and their obligation to uphold the same and to no longer be excused without action on the part of the Defendants for violating the same. And to be made cognizance of the recompense of colorable actions on their part, by not adhering to the Law.
8. Any Defendant, Corporate or Natural, Party-Claimants; Involvements to be found guilty of the charges and shall result in immediate Recusal of Office.
9. Defendant CHARLOTTE KOEHLER is being sued for \$1,100,000.00 for compensatory damages and \$110,000.00 for punitive damages in her personal capacity. Plus \$250,000.00 for each day I was falsely imprisoned, and unconstitutional incarcerated. Which is \$250,000.00 X 42 = \$10,500,000.00 in damages.
10. Defendant SUZANNE HOLLIFIELD is being sued for \$1,100,000.00 for compensatory damages and \$110,00,000.00 for punitive damages in her personal capacity. Plus \$250,000.00 for each day I was falsely imprisoned, and unconstitutional incarcerated. Which is \$250,000.00 X 42 = \$10,500,000.00 in damages.
11. Defendant BELINDA SMITH is being sued for \$1,100,000.00 for compensatory damages and \$110,000.00 for punitive damages in her personal capacity. Plus \$250,000.00 for each day I was falsely imprisoned, and unconstitutional incarcerated. Which is \$250,000.00 X 42 = \$10,500,000.00 in damages.
12. Defendant AMY DEMMLER is being sued for \$1,100,000.00 for compensatory damages and \$110,000 for punitive damages in her personal capacity. Plus \$250,000.00 for each day I was falsely imprisoned, and unconstitutional incarcerated. Which is \$250,000.00 X 42 = \$10,500,000.00 in damages.

13. Defendant JUDGE LARRY STANLEY is being sued for \$1,100,000.00 for compensatory damages and \$110,000.00 for punitive damages in his personal capacity. Plus \$250,000.00 for each day I was falsely imprisoned, and unconstitutional incarcerated. Which is \$250,000.00 X 42 = \$10,500,000.00 in damages.
14. Defendant EUGENE HONG is being sued for \$1,100,000.00 for compensatory damages and \$110,000.00 for punitive damages in his personal capacity. Plus \$250,000.00 for each day I was falsely imprisoned, and unconstitutional incarcerated. Which is \$250,000.00 X 42 = \$10,500,000.00 in damages.

### **DAMAGES**

As a direct and proximate result of the Officials conduct, Byron Harper has continued to suffer, physical and mental anguish and psychological and emotional distress, as well as injury to reputation and humiliation, and irreparable harm. Compensatory, punitive, exemplary, and financial damages are true and correct.

Because the Constitution does not directly provide for damages, Byron Harper must proceed under one of the civil rights statutes that authorizes and award of damages, for alleged constitutional violations **6<sup>th</sup> Sanders v Prentice-Hall Corp. Sys, 178 Cir. 1999 F.3d 1296.** Pleadings in this case are being held In Propria Persona, wherein pleadings are to be considered without regard to technicalities. Propria, pleadings are not to be held to the same high standards of perfection as practicing lawyers. **Haines v. Kerner, 92 Sct 594, also See Power, 914 F.2d 1459 (11<sup>th</sup> Cir 1990)**

**WHEREFORE**, Plaintiff demand judgment against the Defendants for exceeding the Court's jurisdiction amount to be determined as well as the costs of pursing this action. At all times defendants knew or should have known that they were acting in concert to violate clearly established law. **Catz v Chalker, 142 F.3d 279, 293 (6<sup>th</sup> Cir. 1998);**

see Tropf v Fidelity National Title Insurance Co., 142 F.3d, 293 (6<sup>th</sup> Cir. 2002) If by your dishonor you fail to state a claim by which relief can be granted. Your acquiescence equates to agreement of fraud and cause of injury to Plaintiff. Upon your acquiescence you agree to clear the record of the subject matter case, and close and settle the case. The prayer amount for the injury caused to Petitioner is \$70,260,000.00 U.S. Currency, or it's equivalent.

### **CERTIFICATION**

I Byron Harper so state and certify that I am the plaintiff in the above action, and that: Under penalty of perjury applicable to a sovereign, I have read the above opinions of fact, and that it is true and correct to the best of my knowledge. I approach this Court as an Autonomous Autochthon AmErican American, Ab Origine Indigenous Sovereign, individual entity equal to any in the kingdoms and nation states of humans, and as a Royal Prince in the Kingdom of God, as empowered and officially recognized via the Declaration of Independence, the Paris Peace Accord of Sept 3, 1783 and the United States Congress ratification of that Accord as a United States Treaty and part of the supreme law of this land - and by the Constitution of the United States of America, and; I accept the sworn oaths of all officers and justices of the United States, the States of the Union and all lawful Courts there-under – that each said such officer shall uphold and defend the United States Constitution, US Laws, and US Treaties, as the Supreme Law of this land, and that they shall each be BOUND thereby “ANYTHING... TO THE CONTRARY NOTWITHSTANDING” - into evidence before this Court, and that this Court – in this action - is a Court of United States Constitutional and US Law – and is therefore bound to US Constitution, US Codes, US Regulations, and US Treaties as the supreme law of the land – where Equity under the Law is Paramount and Mandatory. Petitioner states. “All Substantive Rights, All Birthrights, All Natural Rights, All Divine Rights, and All Constitutionally Secured Rights, and “In Propria Persona” Status Rights are Declared and Affirmed.”



I Am: byron harper  
byron harper, Sui Juris, Natural Person of The Land  
C/O Non-Domestic  
Foreign Mail Near: 701 South San Jacinto Ste. 149  
Houston, Texas Republic  
Without The US  
In Propria Persona (Not Pro Se Nor Colorable)

Rt. Thumb

Reserving and Retaining All Rights, Liberties, Defenses, Immunities, Remedies, and Treaties.  
Without Prejudice, Without Recourse. U.C.C. 1-207 / 308; U.C.C. 1-103

**Using a notary on this document does not constitute any adhesion nor does it alter my neutral standing *in itinere* in original Common Law Jurisdiction. The purpose for notary is verification and identification only and not for entrance into any foreign jurisdiction.**

#### JURAT

STATE OF TEXAS

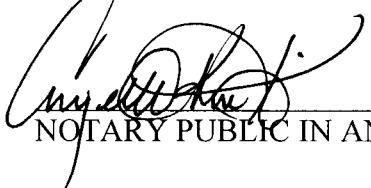
COUNTY OF HARRIS

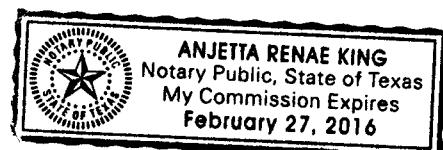
SUBSCRIBED AND AFFIRMED

BEFORE ME ON THIS 20<sup>th</sup> DAY OF NOVEMBER 2013

BY Byron Harper  
(Autochthonous AmErican American, Ab Origine Indigenous Sovereign)

A sovereign man personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR AFORESAID STATE



## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the forgoing was served on all of the parties listed below. Through Hand Delivery, Courier or Fax. On or before the 21<sup>st</sup> day of November, 2013.

Harris County Attorney Vince Ryan  
Attn: F. Clinton Gambill II  
1019 Congress 15<sup>th</sup> Floor  
Houston, Texas 77002  
*Attorneys for Judge Larry Standley*  
**HAND DELIVERY**

Drew & McCallum PLLC  
Attn: Patric P. McCallum – Attorney in Charge  
25231 Grogan's Mill, Ste. 350  
The Woodlands, Texas 77380  
*Attorneys for Charlotte Koehler*  
**FAX DELIVERY**

Houston City Attorney David Feldman  
Attn: Sr. Asst City Attorney Nirja S. Aiyer  
900 Bagby, 3<sup>rd</sup> Floor  
Houston, Texas 77002  
*Attorney for Suzanne Hollifield*  
**HAND DELIVERY**

Harris County DA Devon Anderson  
Attn: Scott A. Durfee  
1201 Franklin Ste. 600  
Houston, Texas 77002  
*Attorneys for Belinda Smith, Eugene Hong,  
Amy Demmler*  
**HAND DELIVERY**

Byron Harper / Byron Harper  
byron harper, Sui Juris, Natural Person of The Land  
C/O Non-Domestic  
Foreign Mail Near: 701 South San Jacinto Ste. 149  
Houston, Texas Republic  
Without The US  
In Propria Persona (Not Pro Se Nor Colorable)



Reserving and Retaining All Rights, Liberties, Defenses, Immunities, Remedies, and Treaties.  
Without Prejudice, Without Recourse. U.C.C. 1-207 / 308; U.C.C. 1-103